



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/647,736	10/04/2000	Caroline A M Lebre	36-1358	2449

23117 7590 04/18/2006

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER

WINDER, PATRICE L

ART UNIT	PAPER NUMBER
----------	--------------

2145

DATE MAILED: 04/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/647,736

Applicant(s)

LEBRE ET AL.

Examiner

Patrice Winder

Art Unit

2145

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 13-20, 31 and 34 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 13 and 31 recite "a software entity ... tangibly embodying a program of instructions". Applicant's disclosure lacks description of tangible embodiments specifically designated as being "tangible". A software entity is not a tangible embodiment. Therefore, claims 13-20, 31 and 34 do not disclose statutory subject matter.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-3, 6-8, 11-17, 19, 21-23, 25-26 and 28-32 are rejected under 35 U.S.C. 102(e) as being anticipated by Factor, USPN 6,058,423 (hereafter referred to as Factor).

Art Unit: 2145

5. Regarding claim 1, Factor taught a method of processing data in a distributed computing environment wherein a client and a server process data (column 1, lines 44-51), the method comprising

sending the server from a first place where it communicates with the client, through the distributed computing environment towards a second different place to perform data processing therefrom (column 8, lines 41-56).

6. Regarding dependent claim 2, Factor taught the method further comprising freezing incoming calls for data processing at the first place while it is being sent from the first place to the second place (column 9, lines 18-20, 27-35), and thereafter directing the frozen calls towards the second place to be processed by the server when it has become functional at the second place (column 9, lines 7-17).

7. Regarding dependent claim 3, Factor taught the method further comprising waiting for the server to complete its current processing tasks before sending it to the second place (column 9, lines 7-10, 18-31).

8. Regarding dependent claim 6, Factor taught the method further comprising creating a proxy for the server at the first place, which controls the sending of the server towards the second place (column 5, lines 45-48).

9. Regarding dependent claim 7, Factor taught the method further comprising sending the client towards a different place in the distributed computing environment (column 9, lines 7-17).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 4-5, 9-10, 18, 20, 24, and 33-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Factor in view of Cole et al., 6,345,314 B1 (hereafter referred to as Cole).

12. Regarding dependent claim 4, Factor does not specifically teach converting the server's operational configuration. However, Cole taught the method further comprising converting the server from an operational configuration at the first place into a configuration suitable for transmission through the distributed environment to the second place (column 3, lines 28-34). It would have been obvious to one of ordinary skill in the art at the time the invention was made that incorporating Cole's converting into a suitable configuration for transmission in Factor's system for migrating servers would have improved system efficiency. The motivation would have been to transfer the server object without substantial degradation of the communication facility.

13. Regarding dependent claim 5, Cole taught the conversion comprises the serialization of the server (column 3, lines 28-34). For motivation for the combination see claim 4, above.

14. Regarding dependent claim 33, Cole taught the method further comprising deserializing the server after transmission through the distributed environment to the

Art Unit: 2145

second place (column 3, lines 32-34). For motivation for the combination see claim 4, above.

15. The language of claims 8-26, 28-32, 34-47 is substantially the same as previously rejected claims 1-7, 33, above. Therefore, claims 8-26, 28-32, 34-47 are rejected on the same rationale as previously rejected claims 1-7, 33, above.

16. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Factor in view of "official notice".

17. Regarding dependent claim 27, Factor taught the server provided with a proxy (column 5, lines 45-48). Factor does not specifically teach the proxy compatible with CORBA or OLE architecture. However, "official notice" is taken that OLE architecture is well known in the art. It would have been obvious to one of ordinary skill in the art at the time the invention was made that incorporating compatibility with OLE architecture in Factor's system for migrating servers would have provided enhanced access to documents. The motivation would have been to expand system access to compound document beyond hypertext documents.

Response to Arguments

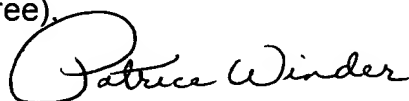
18. Applicant's arguments, see page 13, lines 3-22 of the remarks, filed January 25, 2006, with respect to the rejection(s) of claim(s) 1-32 under 35 USC 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of newly found prior art references.

Conclusion

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrice Winder whose telephone number is 571-272-3935. The examiner can normally be reached on Monday-Friday, 10:30 am-7:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on 571-272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Patrice Winder
Primary Examiner
Art Unit 2145

April 14, 2006